

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE: LOWER MANHATTAN DISASTER SITE
LITIGATION

IN RE: COMBINED WORLD TRADE CENTER
AND LOWER MANHATTAN DISASTER SITE
LITIGATION

CARMELO ACEVEDO

Plaintiffs,

21 MC 102 (AKH)

21 MC 103 (AKH)

**AFFIDAVIT OF DELAY IN RESPONSE
TO THE JULY 25, 2012 COURT ORDER
OF JUDGE ALVIN K. HELLERSTEIN**

07cv1453

STATE OF NEW YORK)
)s.s.:
COUNTY OF NEW YORK)

Carmelo Acevedo being duly sworn, hereby deposes and says:

1. I am the Plaintiff in the above captioned matter and respectfully offer this affidavit of delay in consideration of reinstating my case against the defendants listed in the above captioned mater.
2. I worked at the World Trade Center site, including PS 234 Independence School, Hudson View East, 2 World Financial Center, 1 Wall Street, 140 Broadway 234 Greenwich Street, and Park Place from approximately September 20, 2001 until December 17, 2001. While I was there, I was working as an asbestos handler and cleaner for multiple Asbestos Abatement Companies.
3. After my exposure at these locations, I was diagnosed respiratory problems.
4. After watching my injuries progress, I decided to file a claim in order to receive compensation for my injuries.
5. My injuries were diagnosed by my doctors between 2005 and 2006 and my medical conditions have been progressing ever since.

6. My case has been pending for seven (7) years. I always remained in touch with my attorneys and was always available to comply with my discovery obligations.

7. Six (6) years after I filed my case I was asked again to verify information that was going to be populated to a database for the Court's use. I signed a statement verifying that the information on my case that was to be populated to the database was true and correct to my knowledge, and that I was aware that if any of the information was willfully false that I would be subject to punishment. I believed that by signing this statement that I was verifying the truthfulness of the information that was to be populated in the database. See a copy of the Verification I signed at Exhibit 1.

8. Last year I was considering withdrawing my lawsuit in order to participate in the Zadroga Victims' Compensation Fund. While making this decision there was not that much information available. This made my decision very difficult.

9. I had already been waiting (7) years with my lawsuit. I thought that maybe the Zadroga Victims' Compensation Fund may be faster. In fact, at one time in the Fall of 2011, I authorized my attorneys to discontinue my lawsuit in order to pursue a claim in the Victims' Compensation Fund.

10. As the January 2, 2012 Zadroga Act deadline was approaching, I became less confident in the Zadroga Fund since there was not that much information available. As a result, I changed my mind on December 29, 2011, right after the Christmas Holiday, to proceed with my lawsuit instead of filing a claim with the Victims' Compensation Fund. I made my decision three days before the January 2, 2012 deadline. Once I finalized my decision to proceed with my lawsuit, my attorneys informed me that I needed to verify yet again the information that was populated in the Court's Discovery Database and sign a new Certification that was extremely similar, and to me, almost identical to the Verification I signed months earlier. A copy of this new Certification is attached as Exhibit 2.

11. I believe that the two documents that I signed verifying the information for my case, which was populated in the Court's Discovery Database that are attached hereto as Exhibits 1 and 2 are substantially the same and nearly identical and I was confused as to why I had to sign the same thing twice.

12. Ever since I brought my lawsuit seven years ago, I have always made sure that I was complying with all of my discovery obligations, making sure that everything was up to date and in order.
13. The fact that my case was dismissed solely over the language on a form is unfair and unjust.
14. As explained above, I verified the information in the database two (2) times. Over the span of seven years that my case was pending, I was always actively involved in the prosecution of my case, as this is very important to me.
15. I was shocked to learn that the Court dismissed my case a few weeks ago especially since I was always actively involved with my case.
16. The only time that I was considering withdrawing my lawsuit was prior to the January 2, 2012 deadline. At first, I believed that the best avenue to pursue my claim was through the Victims' Compensation Fund. However based on all of the new information that was being provided to me as the January 2, 2012 statutory deadline was approaching I decided to change my mind and proceed with my lawsuit.
17. Once I finally ruled out the Victims' Compensation Fund option, I immediately consulted with my attorney and made sure that all of my discovery obligations were satisfied and signed yet another certification to my discovery responses.
18. Given the facts and circumstances surrounding my case, I hope that the Court will reconsider its decision in dismissing my case and reinstate my case so I can at least have a chance in receiving the compensation I feel that I deserve for the injuries I sustained while working in Lower Manhattan following the Collapse of the World Trade Center.

Pursuant to 28 U.S.C. §1746 I declare under the penalty of perjury that the foregoing is true and correct.


Carmelo Acevedo


 8/14/12
CARMEN M. ROJAS
Notary Public, State of New York
No. 01RO6073898
Qualified in Bronx County
Commission Expires April 29, 2014

EXHIBIT 1

07cv01453

VERIFICATION

Yo verifico que las respuestas anteriores son verdaderas y correctas a mi conocimiento. Soy consciente de que si alguna de las respuestas anteriores son falsas, estoy sujeto a castigo.

Puedo verificar que ciertos hechos y asuntos expuestos en estas respuestas no son de mi conocimiento personal, y que tal hechos y información han sido reunidas por mis abogados, Worby Groner Edelman & Napoli Bern, LLP basado en las historias clínicas, los documentos y otra información recogida por mí y mis abogados.

Fecha: 9/15/11

Firma:


Carmelo Acevedo

EXHIBIT 2

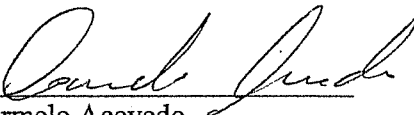
07cv01453

CERTIFICATION

Pursuant to 28 U.S.C. §1746, I certify under penalty of perjury that I have reviewed those questions and answers contained in the database docket 21MC102/103 (AKH) with reference to my individual claim, and those responses are true and correct.

Executed 1-09-, 2012

Signature


Carmelo Acevedo